UNITED
NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/47/207
S/23889
7 May 1992
ENGLISH
ORIGINAL: ARABIC

GENERAL ASSEMBLY
Forty-seventh session
Item 28 of the preliminary list*
THE SITUATION IN AFGHANISTAN AND ITS IMPLICATIONS FOR INTERNATIONAL PEACE AND SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 7 May 1992 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the Secretary-General

I have the honour to enclose the text of a statement issued on 3 May 1992 by H. E. Sheikh Hamdan bin Zayed Al-Nahyan, Minister for Foreign Affairs, announcing that the United Arab Emirates welcomes the establishment of the Interim Council in Afghanistan.

I should be grateful if you would have the text of this letter and its annex circulated as a document of the General Assembly, under item 28 of the preliminary list, and of the Security Council.

(Signed) Mohammad J. SAMHAN
Permanent Representative

* A/47/50.

ANNEX

Communiqué issued on 3 May 1992 by the Ministry of Foreign Affairs of the United Arab Emirates

H. E. Mr. Hamdan bin Zayed Al-Nahyan, Minister for Foreign Affairs, stated that the United Arab Emirates had welcomed with great satisfaction the news that the Transitional Council of the Afghan Mujahidin had, after a long struggle, acceded to power in Kabul under the leadership of Sibgatullah Mojadedi.

The United Arab Emirates greets the Interim Council and has no doubt that it will be able to restore peace and stability in the Republic of Afghanistan and to ensure the progress and prosperity of its Muslim people.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23890
8 May 1992
ENGLISH
ORIGINAL: SPANISH

LETTER DATED 8 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to reiterate to you the request made in my communication dated 27 April addressed to your predecessor, for the convening, as soon as possible, of a meeting of the Security Council to consider the terrorist activities against Cuba promoted, encouraged or tolerated by the Government of the United States of America.

I should like to draw your attention to the fact that this is a formal request made by a State Member of the United Nations exercising its right under Article 35 of the San Francisco Charter, bearing in mind the obligation of the Council under Article 24 of the Charter. On the basis of that right and that obligation, since the inception of the United Nations there has been a well-established and generally respected practice which no member of the Council may ignore or seek to adulterate.

Seeing that the meeting still has not been convened, and with a view to providing further information to illustrate why the Council has a duty to examine this matter and take prompt and effective action, I am submitting below some information which I believe to be of interest. This information is, of course, not exhaustive. There are other important points which I will bring to the Council's notice when it sees fit to meet.

Regarding the efforts to prosecute and punish the actual perpetrators and the masterminds behind the in-flight destruction of the Cubana airliner on 6 October 1976

This barbaric act of sabotage affected several countries in the Caribbean Basin, as well as other States. The aircraft was leased to Cubana Airlines. There were 57 Cubans among the victims, including the entire crew and all the members of a fencing team which had just won the gold medal at the Central American and Caribbean Games in Caracas. The aircraft was blown up and destroyed. The remnants sank into the sea a few minutes after take-off from Barbados. The persons who planted the bombs on the sabotaged aircraft - both of them Venezuelans - were detained in Port of Spain by the Trinidad and

Tobago police. In Caracas, they had prepared the criminal operation under the direction of Orlando Bosch and Luis Posada Carriles, who were apprehended by the Venezuelan authorities. There were also 11 Guyanese and 5 Koreans who perished in the aircraft.

From the very day the crime was committed, the five Caribbean countries affected established the closest coordination and collaboration. That provided the framework for the international commission which met in Barbados to shed light on the technical characteristics of that brutal act of sabotage. From the moment Venezuela decided to institute criminal proceedings against the four suspects, the authorities in Barbados, Trinidad and Tobago, Cuba and Guyana furnished Venezuela with all the information, evidence and other useful data in their possession.

That was how, on the basis of precise and verified information, including admissions by the actual perpetrators themselves, it was possible to establish beyond any doubt: that the bombs were planted by Hernán Ricardo and Freddy Lugo; that immediately afterwards, they reported the accomplishment of their macabre mission to their chiefs, Orlando Bosch and Luis Posada Carriles; that the latter had knowledge of, and direct responsibility for, the terrorist action.

The criminal prosecution of those four individuals led to a long and haphazard trial that was peculiar in more ways than one. On 4 August 1987, 11 years after it began, the Venezuelan Eighth Superior Court of Criminal Justice found Hernán Ricardo and Freddy Lugo guilty, sentenced them to 20 years in prison and "acquitted" Orlando Bosch. The Court did not render any verdict concerning Luis Posada Carriles, because he had left his place of detention under circumstances that are also peculiar; technically, he was a fugitive from justice, although in fact he had resumed his terrorist business - with the assistance and protection of the United States authorities, he found a new home and was given new assignments.

The "innocence" of Orlando Bosch

At this time, I have no wish to voice an opinion on the Court's surprising decision to "acquit" Orlando Bosch. But I do think it necessary to stress that that in no way can be wielded as an argument for justifying impunity.

It is perhaps worth drawing attention to Orlando Bosch's strange behaviour: although his "acquittal" would seem to mean that he had been kept in prison for 11 years "unjustly" for a crime he had not committed, Mr. Bosch did not file any complaint or demand any kind of compensation. No sooner had he got out of prison in Venezuela than he began to organize his entry to the United States, where he finally arrived, without a visa, on 16 February 1988.

It might seem inexplicable that Mr. Bosch should choose to leave Venezuela, where he had been "acquitted" and released, in order to travel illegally to the United States, where he knew that he might have to stand

trial for other crimes. In fact, he knew what he was doing, he was confident that those who had always protected him would continue to do so. Subsequent events proved him right.

Orlando Bosch's arrival in the United States gave rise to legal and administrative proceedings in the course of which revelations came to light concerning his terrorist activities and, specifically, his responsibility for the sabotage of the Cuban aircraft. These revelations show clearly that the United States Government has information and evidence on this crime that was not handed over to the Venezuelan courts and is still being kept secret.

I can make available to members of the Council who wish to peruse it the text of the voluminous document - 233 pages in all - issued by the Venezuelan court on 4 August 1977. This document refers repeatedly to data and information supplied to the court by the authorities of the Caribbean countries mentioned above. The court does not once mention, either directly or indirectly, having received any information from the United States authorities.

What is the explanation for this? Could it have been that Washington knew nothing? Or was this part of its effort to obstruct the course of justice and protect the criminals?

I attach to this letter an official document of the United States Government which answers these questions. It was issued by the Department of Justice on 23 June 1989 and contains the decision of Mr. Joe D. Whitley, Acting Associate Attorney General, ordering Mr. Bosch's deportation.

As Mr. Whitley explains, his conclusions are based on a large quantity of non-confidential information, and an even greater quantity of confidential information, which is in his Government's possession and which is evidence of Orlando Bosch's long criminal career.

I should like to draw your attention to one of the pieces of confidential information to which this document refers and which appears in the first paragraph on page 10 of the annex. It reads: "... the October 6, 1976 Cuban airline bombing was a CORU operation under the direction of Bosch".

It is obvious, and its own Department of Justice says so in an official document, that the United States Government has evidence that Bosch directed the sabotage of the Cuban aircraft, that this evidence was never made available to the courts, that the Government has thus been protecting the murderers and that in so doing it placed the court of an honourable respectable country in the regrettable position of declaring "innocent" someone whom Washington knew and knows to be guilty.

United States conduct in this case simply confirms the belief that the United States Central Intelligence Agency was involved in the crime, a fact which can, moreover, be deduced from the confession of one of the convicted murderers as it appears in the dossier of the Venezuelan court (folios 10 to 12 of the tenth exhibit and folios 98 to 108 of the seventh exhibit).

Some statements by the United States, to the effect that the Council should turn down our request because of the years that have passed since the sabotage of the Cuban aircraft, are truly cynical.

The Security Council has an obligation to demand that the United States put an end to the cover-up and fulfil its obligation to see justice done at last even if it is 15 years after the event.

If it fails to do so, the Council's prestige will be one more casualty of this repugnant case.

Are there those who would have us believe that this crime can be ignored simply because it implicates a permanent member of the Council? Can it be ignored simply because the United States has spent 15 years covering up the crime and protecting the murderers?

Is this the way to combat international terrorism? Do they really believe that anyone would think so?

Note: Despite the arguments put forward by the Department of Justice in the decision of a senior judicial authority, Bosch was not in fact deported but released. This episode reflected on the credibility of the present United States Administration in its alleged opposition to terrorism. As Mr. Whitley warns: "We could not shelter Dr. Bosch and maintain our credibility in this respect".

I should be grateful if you would have this letter and its annex distributed as official documents of the Security Council.

I take this opportunity to convey to you the renewed assurances of my highest and most distinguished consideration.

(Signed) Ricardo ALARCON de QUESADA
Ambassador
Permanent Representative of Cuba
to the United Nations

Annex

[Original: English]

U.S. Department of Justice

Office of the Associate Attorney General

The Associate Attorney General

Washington, D.C. 20530

FILE: A28 851 622
A11 861 810

IN THE MATTER OF:

ORLANDO BOSCH-AVILA,

APPLICANT

In exclusion proceedings under section 235(c) before the Acting Associate Attorney General

Decision of the Acting Associate Attorney General

INTRODUCTION

Pursuant to my responsibilities as Acting Associate Attorney General, I have undertaken a review of the Immigration and Naturalization Service's (INS) decision of May 19, 1989 concerning the applications of Orlando Bosch-Avila for admission to the United States and for asylum. This review has included consideration of the decisions of the INS Regional Commissioner and the Commissioner, the submission of Bosch to the Regional Commissioner arguing against exclusion and requesting a hearing on his asylum application, and certain confidential and nonconfidential information respecting Bosch.

/...

For 30 years Bosch has been resolute and unwavering in his advocacy of terrorist violence. He has threatened and undertaken violent terrorist acts against numerous targets, including nations friendly toward the United States and their highest officials. He has repeatedly expressed and demonstrated a willingness to cause indiscriminate injury and death. His actions have been those of a terrorist, unfettered by laws or human decency, threatening and inflicting violence without regard to the identity of his victims.

The United States cannot tolerate the inherent inhumanity of terrorism as a way of settling disputes. Appeasement of those who would use force will only breed more terrorists. We must look on terrorism as a universal evil, even if it is directed toward those with whom we have no political sympathy. As a United States District Court has eloquently stated with respect to this very case, "the evils of terrorism do not become less because of the participants and the cause." Orlando Bosch Avila v. Perry Rivkind, 88-973-CIV-HOEVELER (S.D. Fla. June 1, 1988) (Order On Petition For Writ Of Habeas Corpus). See also Matter of Rivero-Diaz, 12 I & N Dec. 475 (BIA, 1967).

As a result of this review, the conclusion is inescapable that it would be prejudicial to the public interest for the United States to provide a safe haven for Bosch. I have moreover concluded that he is an alien excludable from the United States under 8 U.S.C. 1182(a)(27), (28)(ii), (28)(iii), (28)(iv) and (29), and that his applications for asylum and withholding of

deportation should be and herein are denied. In addition, pursuant to 8 U.S.C. 1225(c), and after consultation with appropriate security agencies of the United States, I conclude that disclosure of the confidential information upon which this decision is based would be prejudicial to the public interest, safety, or security.

BACKGROUND

Orlando Bosch-Avila, age 62, is a native, citizen and national of Cuba. On July 28, 1960, he was admitted to the United States as a nonimmigrant visitor for pleasure, with authorization to remain until August 28, 1960. Bosch, however, remained in the United States without permission until about April 12, 1974. He has never been granted lawful permanent residence status.

From about 1960 to 1968, Bosch was the leader of Movimiento Insurreccional de Recuperacion Revolucionaria (MIRR), an anti-Castro terrorist organization. On or about September 16, 1968, Bosch was involved in firing a shot from a 57 mm. recoilless rifle at the Polish vessel "Polanica", which was then docked at the Port of Miami. The shell hit the side of the "Polanica", causing damage to the vessel, but no loss of life. On November 15, 1968, Bosch was convicted in the United States District Court for the Southern District of Florida of various felony offenses arising out of the assault on the Polish vessel. At that time he was also convicted on an indictment that had charged him with

using the telegraph to convey threats: 1) to the President of Mexico to damage and destroy Mexican ships and planes; 2) to General Francisco Franco of Spain to damage and destroy Spanish ships and planes; and 3) to Prime Minister Harold Wilson of Great Britain to damage and destroy British ships. Bosch was sentenced to ten years imprisonment, paroled in 1972, and left the United States in 1974, thereby violating the terms of his parole.

Subsequently, Bosch, while outside the United States, founded and led Coordinacion de Organizaciones Revolucionarias Unidas (CORU), an anti-Castro terrorist organization which has claimed responsibility for numerous bombings in Miami, New York, Venezuela, Panama, Mexico, Argentina, and elsewhere.

In October, 1976, Bosch was arrested in Venezuela in connection with the October 6, 1976 in-flight bombing of a civilian Cuban airliner, which resulted in the deaths of 73 men, women, and children. Though detained in Venezuela for eleven years on charges arising from this incident, he was finally acquitted. At his trial, evidence was presented that the two men convicted of homicide in connection with the bombing were in contact with Bosch both before and after the bombing.

Despite being related to a number of United States citizens or permanent resident aliens who have sought to help him obtain lawful immigration status in this country, Bosch's applications for both immigrant and non-immigrant visas were denied in 1987 by the Department of State because of his criminal history and involvement in terrorism. Bosch, nevertheless, came to the

United States from Venezuela on February 18, 1988, without valid entry documents. Upon arrival, Bosch was taken into custody on an outstanding warrant for his 1974 parole violation, and he served an additional three months for this violation.

Upon release from criminal incarceration on May 17, 1988, Bosch was taken into custody by INS. At that time, the INS District Director in Miami served Bosch with a notice of temporary exclusion, alleging that he was excludable from the United States because:

- There is reason to believe he would seek to enter the United States solely, principally, or incidentally to engage in activities prejudicial to the public interest. (8 U.S.C. 1182(a)(27)).

- That he is or has been an alien who advocates or teaches or has been a member of an organization that advocates or teaches the duty, necessity, or propriety of assaulting or killing officers of any organized government. (8 U.S.C. 1182(a)(28)(F)(ii)).

- That he is or has been an alien who advocates or teaches or has been a member of an organization that advocates or teaches the unlawful damage, injury or destruction of property. (8 U.S.C. 1182(a)(28)(F)(iii)).

- That he is or has been an alien who advocates or teaches or has been a member of an organization that advocates or teaches sabotage. (8 U.S.C. 1182(a)(28)(F)(iv)).

- That there are reasonable grounds to believe that he probably would, after entry, engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national interest. (8 U.S.C. 1182(a)(29)).

In addition, the notice alleged that Bosch also is excludable on the grounds that he has been convicted of a crime of moral turpitude (other than a purely political offense), 8

U.S.C. 1182(a)(9), and that he did not possess valid entry documents. 8 U.S.C. 1182(a)(20).

Because Bosch appeared to be excludable under paragraphs (27), (28) or (29) of section 1182(a), the INS District Director in Miami, pursuant to 8 U.S.C. 1225(c) and 8 C.F.R. 235.8, referred the matter to the INS Regional Commissioner for review. Under section 1225(c) and its implementing regulation, the Regional Commissioner may order an alien excluded and deported, without a hearing before an immigration judge, if he is satisfied that the alien is excludable under paragraphs (27), (28) or (29) of 8 U.S.C. 1182(a) "on the basis of information of a confidential nature, the disclosure of which the [Attorney General's designee] in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security."

On May 19, 1989, the Regional Commissioner concluded, in what he described as a "close call," that the record did not establish that Bosch was inadmissable under 8 U.S.C. 1182(a)(27) or (29). He further concluded that while both confidential and non-confidential evidence indicated that Bosch may be excludable under 8 U.S.C. 1182(a)(28)(F), there was adequate non-confidential evidence available to obviate the need for excluding Bosch without a hearing. The Regional Commissioner's decision was affirmed by the Commissioner on the same day in a one-paragraph order.

/...

EVIDENCE OF EXCLUDABILITY

The files of the FBI and other government agencies contain a large quantity of documentary information which reflects that, beginning in the early 1960s, Bosch held leadership positions in various anti-Castro terrorist organizations. The information contained in these files clearly and unequivocally reflects that Bosch has personally advocated, encouraged, organized and participated in acts of terrorist violence in this country as well as various other countries. While some of this information is of a non-confidential nature, a greater quantity, both classified and unclassified, is of a confidential nature because of the need to protect intelligence sources and methods. The information presented for my review included all of the evidentiary materials made available to INS, the material submitted by Bosch to the Regional Commissioner, and additional classified information furnished by the FBI.

What follows is a brief descriptive inventory of some of the more significant non-confidential and confidential evidentiary items that form the basis of my decision. The description of the latter necessarily has been abbreviated and sanitized to protect its confidential nature.

NON-CONFIDENTIAL

- The record of the 1968 conviction in the United States District Court for the Southern District of Florida on charges arising out of the assault on the Polish vessel

"Polanica", and the threats conveyed by Bosch to leaders of other countries to damage ships and planes.

- An FBI interview of Bosch on August 22, 1963 concerning an August 15, 1963 MIRR bombing attack on a Cuban sugar mill.

- Documents reflecting that in June, 1974 Bosch publicly admitted having sent package bombs to Cuban Embassies in Lima, Madrid, Ottawa, and Buenos Aires. Apparently, the bomb sent to Lima injured an embassy employee, and the one sent to Madrid exploded and injured a Spanish postal employee.

- A letter entitled "Cuban Terrorism" by Orlando Bosch, issued in Prison in Caracas, January 1977.

- A radio interview of Bosch during his incarceration in Venezuela in which he advocated violent action against the Venezuelan government. Letters from Bosch to CORU requesting that Venezuelan property be bombed if he were not brought to trial.

- An interview of Bosch tape-recorded by the author of an article entitled "I Am Going to Declare War" which appeared in the news magazine "New Times", 5/13/77. Apparently, Bosch claimed CORU was responsible for over fifty bombings, but refused to take personal credit for terrorist actions within the United States because of "FBI heat".

- Excised classified documents relating to Cuban exile operations against Cuba in 1963.

- A statement by Bosch while in prison in Venezuela, to investigators for a committee of the U.S. House of Representatives investigating the assassination of President John F. Kennedy. According to the House Assassinations Committee, Bosch denied involvement in the 1976 Cuban civilian airliner bombing, but said that he approved of it. Declaring that terrorism is a necessary evil in the fight against Castro, Bosch asserted that "You have to fight violence with violence. At times you cannot avoid hurting innocent people."[1] Investigation of the Assassination of

---

[1] The section of the Committee's report devoted to its investigation of Bosch concluded as follows: "Orlando Bosch, a zealot, turned out to be the most aggressive and volatile of the anti-Castro leaders. That alone could validly raise the question of possible association with the assassination of President Kennedy. In addition, the Committee was presented with an allegation that specifically linked him to a conspiracy, but

(continued...)

President John F. Kennedy: Appendix to Hearings Before the House Select Comm. on Assassinations, 95th Cong., 2nd Sess. 89 (1979)(submitted by Gaeton J. Fonzi, investigator, and Patricia M. Orr, researcher).

- The record of Bosch's trial in Venezuela on charges stemming from the mid-air bombing of a civilian Cuban airliner.

CONFIDENTIAL

- Information relating to Bosch's involvement, between 1961 and 1968, in more than 30 acts of sabotage and violence in the United States, Puerto Rico, Panama, and Cuba. These acts included the May 4, 1968 bombing of the British vessel "Granwood," the May 30, 1968 bombing of the Japanese vessel "Asaka Maru" and the June 1, 1968 bombing of the Japanese vessel "Mikagesan Maru".

- Information relating to Bosch's involvement in the attempted assassination of the Cuban Ambassador in Buenos Aires, Argentina in August 1975.

- Information relating to Bosch's involvement in the September 1, 1976 bombing of the Mexican Embassy in Guatemala City, Guatemala.

- Information relating to plans by CORU in 1977 to assassinate a high-ranking Cuban diplomat.

- Information relating to the organization and command structure of CORU, and reflecting that between June 1976 and March 1977, persons associated with CORU engaged in some 16 episodes involving bombings, attempted kidnapings, assassination and attempted assassination. These episodes occurred in the United States, Spain, the Caribbean, and Central and South America.

- Information reflecting that between 1974 and 1976 in Venezuela, Bosch was in possession of bombs, explosive materials and an automatic weapon.

---

[1](...continued)
investigation failed to support the claim that Bosch had been in Dallas in November 1963 in the company of Lee Harvey Oswald. When asked, Bosch told the Committee he was at his home in Miami when he learned President Kennedy had been shot." Investigation of the Assassination of President John F. Kennedy: Appendix to Hearings Before the House Select Comm. on Assassinations, 95th Cong., 2nd Sess. 91-92 (1979)(submitted by Gaeton J. Fonzi, investigator, and Elizabeth J. Palmer, researcher).

- Information reflecting that the October 6, 1976 Cuban airline bombing was a CORU operation under the direction of Bosch.

- Information reflecting that Bosch, while incarcerated in Venezuela, ordered the bombing of Venezuelan facilities.

- Information reflecting that between 1979 and 1984, while incarcerated in Venezuela, Bosch was in contact with persons associated with CORU and other anti-Castro groups, and that during this period he advocated acts of violence and sabotage.

BOSCH'S SUBMISSION

In his reply to the order of temporary exclusion, Bosch has asserted that he does not intend to engage in any activity prejudicial to the United States, that he has always opposed bombing within the United States, that he currently does not favor the commission of violent acts in the United States, and that he has not come here to engage in espionage or any other subversive activity. He contends that he is now simply an old man who has learned lessons over the years, and he wants to be with his family and to escape the threat of assassination by agents of Fidel Castro. He advances additional claims respecting his past membership in organizations such as MIRR and CORU, respecting a limited exception to excludability based on such past membership, and respecting asylum.

Perhaps most notable in his submission is his repeated disavowal of any intent to commit violent or terrorist actions in the United States, while at the same time declining to disavow such activities elsewhere. Simply by looking to his own assertions here, it is evident that Bosch has not given up his

/...

personal and violent battle. He merely says he will not wage his "war" on our soil anymore.

CONCLUSIONS RESPECTING EXCLUDABILITY

Our exclusion laws specifically place the burden of showing admissibility on the alien. 8 U.S.C. 1361. The United States does not have to experience the harm to the public or to the national security that may be caused by aliens such as Bosch before they may be denied our hospitality.

Based on all of the information made available to me, both confidential and non-confidential, it is clear that for more than 30 years Bosch has been resolute and unwavering in his advocacy of terrorist violence. He has formed and led organizations whose purposes include precisely the actions declared to be grounds for exclusion in 8 U.S.C. 1182(a)(28). Over the years he has personally advocated and has been involved in terrorist attacks abroad and has advocated and been involved in bombings and sabotage. There is no substantial information to indicate that Bosch has renounced terrorism in the service of the cause to which he has devoted his life.

Despite his current assertions of opposition to violence in the United States, his personal history indicates that he will take violent action against any target if he believes it will advance his cause. At this moment, he may or may not truly believe that forsaking violent acts within the United States will advance that cause. But his behavior and beliefs are consistent,

and the evidence leads me inescapably to the conclusion that Bosch would instigate, plan, and participate in terrorist actions in the United States if and when it served his purposes. I therefore conclude that he is a threat to the national security.

From the foregoing it is evident that I do not agree with the suggestion in the Regional Commissioner's opinion that the exemption in 8 U.S.C. 1182(a)(28)(I) applies in this case. Even assuming that the exemption would ever be available where, as here, exclusion is based on advocacy or teaching of unlawful violence, as opposed to mere membership in an organization that so advocates or teaches, I do not believe the evidence supports Bosch's assertion that he is and has been "actively opposed" for the past five years to the doctrine and principles of the terrorist organizations of which he has been a member. Furthermore, I am utterly unable to conclude that his admission would be "in the public interest," as required under the exemption.

Furthermore, I am convinced that the Regional Commissioner substantially understated the weight of the evidence when he described the questions under 8 U.S.C.(a)(27) and (29) as being "close calls." The Regional Commissioner's decision cannot be squared with the indisputable and overwhelming weight of the record in Bosch's case.

The evidence leads me to conclude that Bosch seeks to enter the United States to engage in activities that would be prejudicial to the public interest and subversive to the national

security, as provided in sections (a)(27) and (29). This is so even if I were persuaded that Bosch would never commit a violent or terrorist act in this country. As he made plain in his most recent affidavit and his filings responding to the charges of excludability, he does not disavow terrorist acts committed outside the United States. Even if his repudiation were more universal and credible, Bosch would still be subject to the proscription of these sections of the statute. Indeed, his mere presence in this country, given his well publicized history of terrorist acts, would be prejudicial to the public interest and subversive to the national security.

More specifically, I conclude, based in part on information of a confidential nature, that:

1. Bosch is an excludable alien because there is reason to believe that he seeks to enter the United States incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety or security of the United States, 8 U.S.C. 1182(a)(27).

2. Bosch is an excludable alien both because he has personally advocated and taught the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Cuban government because of his or their official character, and because of his membership in MIRR and CORU. 8 U.S.C. 1182(a)(28)(F)(ii).

3. Bosch is an excludable alien because he has personally advocated and taught the unlawful damage, injury, or destruction of property, and because of his membership in MIRR and CORU. 8 U.S.C. 1182(a)(28)(F)(iii).

4. Bosch is an excludable alien because he has personally advocated and taught sabotage, and because of his membership in MIRR and CORU. 8 U.S.C. 1182(a)(28)(F)(iv).

5. Bosch is an excludable alien because there is reasonable ground to believe that he probably would, after entry, engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, 8 U.S.C. 1182(a)(29).

6. The exemption in section 1182(a)(28)(I) is unavailable in a case where, as here, exclusion is based on active advocacy and teaching of violence, as opposed to mere membership in or affiliation with an organization that so advocates or teaches. The evidence here would not in any event allow Bosch to invoke that exception.

APPLICATION FOR ASYLUM AND WITHHOLDING OF DEPORTATION

Inasmuch as I have concluded that Bosch is excludable and deportable, his application for asylum is properly before me for decision.[2]

---

[2]While the regulations do not address specifically how an asylum application should be handled in the context of a section
(continued...)

I have carefully reviewed Bosch's asylum application, together with its attachments. I consider it also as an application for withholding of deportation. For purposes of deciding whether or not to grant Bosch asylum, I assume, without deciding, based on Bosch's own representations, that there is a clear probability he will be subject to persecution if he is returned to Cuba. This assumption would allow Bosch to meet the lesser standard of a well-founded fear of persecution as that term is used in Section 101(a)(42) of the Immigration and Nationality Act, and thus to meet the threshhold test for the granting of asylum. 8 U.S.C. 1101(a)(42).[3]

Of course, even if an individual has established a clear probability of persecution in his country of origin, this does not end the inquiry as to whether an individual will receive asylum. The regulations provide for the discretionary consideration of other factors which may lead to the conclusion

---

[2](...continued)
235(c) proceeding, I believe the regulatory framework taken as a whole clearly contemplates the adjudication of an aylum claim in the same forum as the adjudication of excludability. See 8 C.F.R. 208.1(b). Moreover, remanding Bosch's asylum claim to the District at this point would clearly frustrate the very purpose of the summary procedure provided in section 235(c). And, the Attorney General has specifically directed me to consider and dispose of Bosch's application for asylum and withholding of deportation.

[3] Given this assumption, there is no need to request an opinion from the Bureau of Human Rights and Humanitarian Affairs, as would ordinarily be appropriate if this matter were before the Immigration and Naturalization Service or the Executive Office for Immigration Review. 8 C.F.R. 208.7, 208.10(b).

/...

that asylum should nonetheless not be granted. In this case those considerations are dispositive.

Under the governing statute and its implementing regulations, withholding of deportation must be denied if an individual has been convicted of a particularly serious crime and, therefore, constitutes a danger to the community of the United States. 8 U.S.C. 1253(h)(2)(B). Bosch's 1968 conviction of a particularly serious crime by itself makes him ineligible for withholding of deportation. In addition, the conclusions reached in the foregoing section respecting Bosch's long history of support for and active participation in terrorist activities and organizations, confirms my belief that he constitutes a danger to the community. For these reasons, in the exercise of discretion, he is denied asylum.[4]

An additional ground for denial of asylum and withholding of deportation is that there are "reasonable grounds for regarding the alien as a danger to the security of the United States." 8 U.S.C. 1253(h)(2)(D), 8 C.F.R. 208.8(f)(1)(vi). Based on my review of the confidential information in this case, as described in previous sections of this opinion, I find that Bosch's presence in the United States does constitute such a danger.

---

[4]Under the applicable regulations, the District Director is required to deny asylum to an alien convicted of a particularly serious crime. See 8 C.F.R. 208.8(f)(1)(iv). But see Arauz v. Rivkind, 845 F.2d 271 (11th Cir., 1988) (immigration judge must consider other evidence presented by alien as well as prior conviction in deciding whether aslyum will be granted).

/...

Finally, the confidential information considered in the course of adjudicating the exclusion order leads me to believe that Dr. Bosch has committed serious nonpolitical crimes outside the United States prior to his last arrival here. This too is a sufficient basis to deny his application for withholding of deportation and to support a discretionary denial of asylum. 8 U.S.C. 1253(h)(2)(C). See Matter of MacMullen, Int. Dec. 2967 (BIA, May 25, 1984).

Any of the three bases for denying asylum and withholding of deportation described above would be sufficient standing alone to bar Bosch from the relief he seeks. Considered cumulatively, they are more than sufficient to outweigh the consideration I have given to Bosch's fear of persecution. In light of Bosch's extensive involvement in terrorist activities and organizations, his declaration that he would not engage in terrorist activities in the United States is not credible. Further, even if he limited his activities to the advocacy of terrorist acts by others outside the United States, there is a substantial risk of retaliation aimed against this country or its citizens. The United States cannot grant shelter to someone who will, from that shelter, advocate the visitation of injury and death upon the property or person of innocent civilians. The security of this nation is affected by its ability to urge credibly other nations to refuse aid and shelter to terrorists, whose target we too often become. We could not shelter Dr. Bosch and maintain our credibility in this respect.

CONFIDENTIALITY

Pursuant to 8 U.S.C. 1225(c) and after consultation with the appropriate security agencies of the Government, I conclude that disclosure of the confidential information upon which I have relied would be prejudicial to the public interest, safety, or security.

CONCLUSION

For the reasons set forth above, it is this date hereby ORDERED that Orlando Bosch-Avila be excluded and deported from the United States. It is further ORDERED that his applications for asylum and withholding of deportation under 8 U.S.C. 1158 and 1253(h), respectively, be denied.

June 23, 1989
Date

Joe D. Whitley
Acting Associate Attorney General

/...

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached RESPONDENTS' NOTICE OF FILING OF DECISION OF ACTING ASSOCIATE ATTORNEY GENERAL were served on counsel for the petitioner, by first class mail, on June 30, 1989. The copies were mailed to:

Henry N. Adorno
Raoul G. Cantero, III
ADORNO ZEDER ALLEN YOSS
BLOOMBERG & GOODKIND, P.A.
Bayview Executive Plaza
3225 Aviation Avenue, Suite 400
Miami. FL 33133

Oscar Levin
BARST & MUKAMAL
444 Brickell Avenue, Suite 601
Miami, FL 33131

Lauri Steven Filppu

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23891
8 May 1992
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 8 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Letter dated 5 December 1991 from the judge conducting the inquiry into the crash of the DC-10 aircraft belonging to the French UTA airline addressed to the Examining Magistrate at the Court of First Instance, Paris.

Letter dated 31 December 1991 from the judge conducting the inquiry into the incident addressed to the Examining Magistrate at the Court of First Instance, Paris.

Letter dated 26 April 1992 from the judge conducting the inquiry into the crash of the UTA aircraft addressed to the secretariat of the General People's Committee for Justice of the Jamahiriya in response to the letter from the French Examining Magistrate, Mr. J.-L. Bruguière, transmitted to the Secretary-General by the Permanent Representative of France to the United Nations.

I should be grateful if you would have this letter and its annexes circulated as a document of the Security Council.

(Signed) Ali Ahmed ELHOUDEIRI
Permanent Representative

Annex I

Letter dated 5 December 1991 from the Counsellor at the Supreme Court of the Libyan Arab Jamahiriya addressed to the Examining Magistrate, Court of First Instance, Paris

I have the honour to inform you that I have been commissioned by the Plenum of the Supreme Court of the Libyan Jamahiriya to inquire into the incident of the crash of the DC-10 aircraft belonging to the French UTA airline over the territory of the Republic of the Niger some two years ago.

In notifying you of this, I should like to express my complete readiness to cooperate with you in bringing the truth to light. We request, in this connection, to be provided with a copy of the documents pertaining to the investigations that took place with regard to the said incident and the incriminating evidence amassed by you which led to the indictment of Libyan suspects as having had a role in the said incident.

(Signed) Mahmud MURSI
Counsellor at the Supreme Court

Annex II

Letter dated 31 December 1991 from the Counsellor, Investigating Commissioner of the Libyan Arab Jamahiriya addressed to the Examining Magistrate, Court of First Instance, Paris

With reference to our letter to you of 5 December 1991, in which we expressed our readiness to cooperate with you in bringing the truth to light in the matter of the crash of the French aircraft in the Niger in 1989 and requested from you a copy of the documents pertaining to the investigations that took place in that regard or the evidence amassed by you which led to the indictment of Libyan suspects as having had a role in the said incident, I should like to inform you that I have as yet received no reply from you. In this present letter to you, I should like to propose that I am ready to come to Paris in order to examine the aforementioned investigatory documents.

Should you reach agreement with the official French authorities on this matter, I request you to inform us of the date. In another respect, we should like to inform you that we have no objection to your coming to the Libyan Jamahiriya and that we are ready to provide the inquiry with whatever you deem the inquiry should be provided with, whether the hearing of particular witnesses or otherwise.

(Signed) Mahmud Ahmad MURSI
Counsellor
Investigating Commissioner

Annex III

Letter dated 26 April 1992 from the Counsellor, Investigating Judge of the Libyan Arab Jamahiriya addressed to the Adviser to the Secretary of the General People's Committee for Justice of the Libyan Arab Jamahiriya

We have received the text of the letter that you were kind enough to provide to us, namely the letter from our colleague the French Examining Magistrate, Mr. J.-L. Bruguière, addressed to the French Minister of State and transmitted to the Secretary-General of the United Nations by the Permanent Representative of France on 21 April 1992.

In light of the contents of that letter, we should like to state the following:

1. In the framework of our commitment to full and effective judicial cooperation in the legal proceedings being taken with regard to the incident of the DC-10 aircraft belonging to the UTA company, we took the initiative, on 5 December 1991, of writing to our colleague the Examining Magistrate at the Court of First Instance in Paris, expressing our complete readiness to cooperate with him in bringing the truth to light and requesting him to provide us with a copy of the documents pertaining to the investigations that had taken place in that regard and the incriminating evidence that had been amassed. (A copy of the letter is enclosed herewith.)

2. On 31 December 1991, we supported our first letter with another in which we reiterated our readiness to cooperate in bringing the truth to light and our request for a copy of the documents pertaining to the investigations and the evidence amassed. We proposed that we were ready to meet with him, and we informed him of our readiness to receive him in the Great Jamahiriya. (A copy of the letter is enclosed herewith.)

3. The French Examining Magistrate commented on the Libyan inquiry by saying "The content of the documents produced as constituting the Libyan file on the inquiry is inconsistent and the documents therefore have no probative value. There are even anomalies in some documents."

It is clear from the above that he has criticized the Libyan inquiry in terse and inscrutable terms. Let us therefore request him to get to the root of the matter, as he wishes to do. We are prepared to cooperate with him in bringing the truth to light.

For our part, in accordance with article 105 of the Libyan Code of Procedure, we instituted an inquiry with the three suspects after establishing their identities and informing them of the charges brought against them in the presence of their attorneys. We discussed with them in detail everything contained in the indictment brought by the French Examining Magistrate a copy of which had reached us and the existing suspicions against them, and we confronted each of them with what the others had said.

With regard to the fourth suspect, the Libyan authorities have presented evidence, by means of official documents, to establish his true name and that he died more than one year ago. With regard to the documents presented by the accused, they are documents issued by the official authorities sanctioned by the State.

In conclusion, we are prepared to cooperate fully with the French Examining Magistrate in order to bring the truth to light, and we request him to let us know about any matter which he wishes to look into more closely.

Mahmud Ahmad MURSI
Counsellor
Investigating Judge

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23892
8 May 1992
ENGLISH
ORIGINAL: FRENCH

LETTER DATED 6 MAY 1992 FROM THE PERMANENT REPRESENTATIVES OF BELGIUM, FRANCE AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

We have the honour to draw to your attention the text, in French and in English, of a declaration on the recent events in Sarajevo which was adopted by the European Community and its member States at Lisbon and Brussels on 5 May 1992.

We should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(Signed) Paul NOTERDAEME
Permanent Representative of Belgium
to the United Nations

(Signed) Jean-Bernard P. H. P. MERIMEE
Permanent Representative of France
to the United Nations

(Signed) David HANNAY
Permanent Representative of the United Kingdom
to the United Nations

Annex

Declaration on recent events in Sarajevo

[Original: French/English]

The European Community and its member States exhort all parties in Sarajevo to act with the utmost restraint and to do all in their power to refrain from any further action that might lead to a catastrophic situation of unforeseeable consequences.

The European Community and its member States urge the JNA to fully support the presidency of Bosnia and Hercegovina in the exercise of its constitutional responsibilities in order to resolve all outstanding issues. They also call upon the legal authorities of the Republic to do all in their power for the immediate lifting of the blockade of the military academy and other military installations.

The European Community and its member States condemn the seizure of President Izetbegovic by the JNA on Saturday as well as the repeated shelling of Sarajevo by JNA and irregular forces which has already caused the death of many innocent civilians and brought considerable destruction in the city.

The European Community and its member States likewise condemn the attack made on Sunday of a JNA convoy which was proceeding under the terms of an agreement with the presidency of Bosnia and Hercegovina, brokered by United Nations and European Community representatives during a time which the basic rules of democracy were being violated by the JNA.

Once again the European Community and its member States appeal to the parties concerned to enforce existing cease-fire agreements, without which no viable political solution to the problems of Bosnia and Hercegovina is possible, and to proceed with negotiations on the withdrawal of the JNA.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23893
8 May 1992
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 8 MAY 1992 FROM THE CHARGE D'AFFAIRES OF THE PERMANENT MISSION OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government and in response to the letter sent by the representative of Iraq (S/23751) concerning the demilitarized zone, I have the honour to inform you as follows:

1. Iraq's allegations that an Iraqi was wounded in the frontier zone, at Safwan, on 12 March 1992 have no foundation. The aforementioned zone is traversed constantly by members of the United Nations Iraq-Kuwait Observer Mission (UNIKOM), which keeps a record of all the violations occurring there. There is also a set observer patrol by the aforementioned members of UNIKOM in the vicinity of the farms where Iraq maintains that the incident occurred. This patrol goes between the Kuwaiti police station at Al-Abdali and the Iraqi police post at Safwan. If there had been any violation on the part of the Kuwaiti police, UNIKOM would have alerted the Kuwaiti authorities.

2. Iraq's allegations that a Kuwaiti patrol opened fire on the guard post of Umm Qasr on 18 and 19 March 1992 are also fallacious. The guard post of Umm Qasr is located close to the observer's command post in the northern sector. It is on the Mike Road, which our patrols are not authorized to use, by order of the observers. Furthermore, the observer patrols are constantly traversing the area of Umm Qasr. Accordingly, if there had been a violation on the part of the Kuwaiti police, UNIKOM would have alerted the Kuwaiti authorities.

3. The existence of the Iraqi post of Umm Qasr is considered in itself a violation of the cease-fire and the integrity of Kuwaiti territory. This post, as UNIKOM reports attest (see para. 22 (d) of document S/23766), is one of five Iraqi posts located in Kuwaiti territory, according to the frontiers shown on the UNIKOM map. Although Kuwait and UNIKOM have repeatedly stated that these posts should be evacuated, Iraq continues to delay their evacuation.

I should be grateful if you would have the text of this letter circulated as a document of the Security Council.

(Signed) Mohammad S. AL SALLAL
Chargé d'affaires a.i.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23894
10 May 1992
ENGLISH
ORIGINAL: ENGLISH/RUSSIAN

LETTER DATED 9 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF AZERBAIJAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you the Russian translation of the statement by the President of the Azerbaijan Republic, Mr. Yakub Mamedov, in connection with the grave situation in Nagorny-Karabakh as a consequence of the intensifying attacks of Armenian forces. These attacks have resulted in the occupation and destruction of the city of Shusha with heavy loss of life. This massive offensive, supported by the air force and tanks, is a flagrant violation of Azerbaijan's sovereignty and territorial integrity and a most serious threat to peace.

I am bringing this very grave situation to the urgent attention of the Security Council.

I shall appreciate it if you could kindly have this letter and the President's statement circulated as a document of the Security Council.

(Signed) Hassan A. HASSANOV
Ambassador
Permanent Representative

Annex

Statement by Mr. Y. Mamedov, Chairman of the Supreme Soviet of the Azerbaijani Republic

The Armenian militarists have undertaken a new barbarian action. Today, in the pre-dawn hours, the city of Shusha was subjected to a concentrated bombing attack. Heavy artillery, rockets and the Grad rocket launcher were used. Houses and other buildings were destroyed, and people were killed and wounded. Immediately after the relentless bombardment, which lasted for many hours, the city was attacked from three sides. Backed by tanks and armoured vehicles, a sizeable armed force advanced on Shusha. Before the start of the large-scale operation, Armenian armed units cut off the only road linking Shusha with the rest of Azerbaijan. The attacks lasted for the whole day. The city's defenders are successfully containing the enemy's onslaught.

We received information about this provocative incident soon after the tripartite meeting at Tehran, in which the peoples of Azerbaijan and the whole region placed their hopes. And, I must say, such hopes were not unfounded. The course of the negotiations at Tehran demonstrated that, in spite of the differing approaches to the settlement of the Karabakh conflict and to the great number of mutual claims, there is common agreement that the bloodshed must be stopped.

Now, when the streets of the ancient centre of Azerbaijani culture are again steeped in the blood of innocent people, the outcome of that important meeting, whose purpose was to normalize the situation in the region, has been seriously jeopardized. The separatists' new venture nullifies the peace-keeping efforts of the United Nations, the Conference on Security and Cooperation in Europe, other international organizations and a number of heads of State that are seeking to normalize the situation in Karabakh and on the Azerbaijani-Armenian frontier. The world is aware that Shusha is a sacred place for the Azerbaijani people and is the centre of its spiritual and cultural life. The attack on this sacred place grieves the heart of every Azerbaijani. The destruction or the perfidious capture of the city will, inevitably, elicit an appropriate response, and the battle for Shusha may develop into a large-scale conflict. Need I mention the dangers inherent in such a turn of events?

The matter is clear: a band of separatists and ardent nationalists from Khankendi and their protectors - and not only from Armenia - is playing with the fates of peoples, continuing to rely on force and to fan the flames of hatred and war.

I appeal to all those who have declared their humane intentions to settle the bloody confrontation, the Conference on Security and Cooperation in Europe, the Presidents of the Russian Federation, Kazakhstan and other States of the Commonwealth of Independent States, Turkey and the Islamic Republic of Iran, and the entire international community, to restrain the aggressor. Only

common efforts can prevent an escalation of the violence and a new tragedy in long-suffering Azerbaijan, a tragedy whose dimensions may exceed the horrors of Khojaly, which shocked the entire world.

The Azerbaijani people believes that reason, humanism and justice will triumph. Its voice must be heard.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23895
11 May 1992
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 8 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government and in reply to the letter from the Kuwaiti representative contained in document S/23819, I wish to inform you of the following:

When the Kuwaiti representative takes up secondary details addressed in your report (S/23766) and makes baseless and tendentious claims, he is simply trying to distort and falsify the essential subject of that report which Iraq felt had not benefited from the attention it deserved. The essential point is that the number of Kuwaiti violations, as stated in the report, amounted to 100 during the period from 3 October 1991 to 31 March 1992, as compared with 4 Iraqi violations established by the Observer Mission. The report noted simply that the aforementioned violations had been raised in writing with the party concerned. Thus, according to the report, the United Nations took no action vis-à-vis the Kuwaiti side's persistent infringements and violations. In the light of available evidence and precedents, Iraq considers that the report of the United Nations Secretariat did not treat the issue in a neutral and objective manner. It is, indeed, this approach which encourages the representative of Kuwait to persist in his pedantic presumptions and to make random accusations against Iraq at a time when the Kuwaiti regime continues to commit flagrant violations inside the zone of operations of the United Nations Observer Mission.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Abdul Amir A. AL-ANBARI
Ambassador
Permanent Representative

92-20019 3178j (E) 120592 120592 120592

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23896
11 May 1992

ORIGINAL: ENGLISH

LETTER DATED 11 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF ARMENIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to transmit herewith a letter from Mr. Levon Ter-Petrossian, President of Armenia, dated 9 May 1992, requesting an emergency meeting of the Security Council of the United Nations to discuss the escalation of the conflict in Nagorno-Karabakh.

I would be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Alexander ARZOUMANIAN
Permanent Representative

Annex

Letter dated 9 May 1992 from the President of Armenia addressed to the President of the Security Council

The Republic of Armenia has the honour to request that an emergency meeting of the Security Council of the United Nations be convened to discuss the escalation of the conflict in Nagorno-Karabakh, the continuing blockade of Armenia and Nagorno-Karabakh and the threat of potential outside intervention in the region.

Pursuant to Article 35(1) of the Charter of the United Nations, Armenia hereby brings the situation of armed conflict and illegal economic blockades in and around the Nagorno-Karabakh Republic and on the border between Armenia and Azerbaijan to the Security Council. While Armenia is not a party to the dispute between the Nagorno-Karabakh Republic and the Azerbaijani Republic, it has been the subject of cross-border attacks from and illegal blockades by Azerbaijan.

Accordingly, the Republic of Armenia is specifically requesting the Security Council (a) to dispatch peace-keeping forces to the Nagorno-Karabakh Republic and (b) to order such other measures to compel the lifting of economic blockades, maintain and restore international peace and security and protect human rights as it deems necessary. Armenia requests that the Security Council also take measures to ensure that all States Members of the United Nations respect their obligations under the Charter and refrain from any and all intervention in the region.

Through recent mediation efforts of the Islamic Republic of Iran, Nagorno-Karabakh and Azerbaijan have agreed to cease-fires, however temporary. The combatants and, more importantly, the local civilian population lack the necessary confidence for the agreements alone to effect a permanent cease-fire. An international peace-keeping force has become essential if the inhabitants of Nagorno-Karabakh are to believe that cease-fires will be respected, a permanent peace process secured and human rights guaranteed.

We are convinced that, without the international guarantees which only a United Nations peace-keeping force can provide, the conflict's steady escalation will continue, placing in grave jeopardy the security of the region and ultimately the world.

(Signed) Levon TER-PETROSIAN
President of Armenia

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23897
11 May 1992
ENGLISH
ORIGINAL: FRENCH

NOTE VERBALE DATED 7 MAY 1992 FROM THE PERMANENT MISSION OF FRANCE TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of France to the United Nations presents its compliments to the Secretary-General and has the honour to inform him of the measures taken by France pursuant to Security Council resolution 748 (1992).

1. Sanctions in the aviation sector

European Council regulation 945/92 of 14 April 1992 prohibits the provision to Libya of goods and services in the aviation sector, as well as the take-off, landing and overflight of aircraft proceeding from or to Libya.

A Prime Ministerial directive has been issued in relation to certain matters not covered by the Community regulation (a procedure for authorization by the Prime Minister, subject to the agreement of the Committee established under paragraph 9 of resolution 748 (1992), in the case of any request for exemption; ground control for authorized flights; suspension of all agreements concluded with third States authorizing access to our airspace for aircraft proceeding from or to Libya).

2. Military embargo

Prime Ministerial decree 92-387 of 14 April 1992 implements the related provisions of resolution 748 (1992).

In addition, a Prime Ministerial directive terminates all assistance and training of possible military use with Libya.

The French military technical cooperation group at Tripoli (two persons) has ceased its activities.

3. Measures in respect of Libyan diplomatic and consular missions

The Ambassador of Libya in Paris was summoned to the Ministry of Foreign Affairs on 15 April 1992. The Secretary-General of the Ministry notified him of the French authorities' decision to require six members of the Libyan

diplomatic mission, who were duly named, to leave France before 30 April 1992. The six included three diplomatic agents, two consular officers and one member of the administrative and technical staff. The aforementioned persons did leave French territory before the specified date. The movements of remaining members of the Embassy are being very closely monitored.

4. Libyan Airlines office

The Director-General of Civil Aviation notified the Libyan Airlines office in writing that it must cease all activity with effect from 15 April 1992.

5. Libyan nationals linked to terrorism

The Ministry of the Interior has taken the measures necessary to ensure that access to our territory is denied to all Libyan nationals who are judged undesirable or have been expelled by other States.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23898
11 May 1992

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL CONCERNING THE CREDENTIALS OF THE DEPUTY REPRESENTATIVE OF ZIMBABWE ON THE SECURITY COUNCIL

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received credentials signed on 24 April 1992 by the Minister for Foreign Affairs of Zimbabwe stating that Mr. Stanislaus Garikai Chigwedere has been appointed deputy representative of Zimbabwe on the Security Council.

In the opinion of the Secretary-General, these credentials are in order.

92-20115 3134f (E) 110592

110592

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23899
11 May 1992

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL CONCERNING THE CREDENTIALS OF THE ALTERNATE REPRESENTATIVE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON THE SECURITY COUNCIL

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 8 May 1992 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations stating that Mr. Derek J. Plumbly has been appointed alternate representative of the United Kingdom on the Security Council.

In the opinion of the Secretary-General, this letter constitutes adequate provisional credentials.

92-20157 3168h (E) 110592 110592

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23900
12 May 1992

ORIGINAL: ENGLISH

FURTHER REPORT OF THE SECRETARY-GENERAL PURSUANT TO SECURITY COUNCIL RESOLUTION 749 (1992)

INTRODUCTION

1. The present report is submitted to the Security Council pursuant to its resolution 749 (1992), in paragraph 6 of which the Council appealed "to all parties and others concerned in Bosnia-Herzegovina to cooperate with the efforts of the European Community to bring about a cease-fire and a negotiated political solution". Following concerns expressed in informal consultations of the Security Council, I wrote to its President on 29 April 1992 informing him of my decision to despatch Mr. Marrack Goulding, Under-Secretary-General for Peace-keeping Operations, to examine the evolving situation in Bosnia-Herzegovina and to look into the feasibility of a United Nations peace-keeping operation. 1/ Mr. Goulding was in Yugoslavia (a term which, for the purposes of the present report, is used to signify the republics of the former Socialist Federal Republic of Yugoslavia) from 4 to 10 May. While there he took the opportunity to review progress in the deployment of the United Nations Protection Force (UNPROFOR) and to discuss problems relating to that operation with the Force Commander and certain of his Yugoslav interlocutors. The present report therefore covers two separate subjects: Bosnia-Herzegovina and the deployment of UNPROFOR.

2. On his way to Yugoslavia, Mr. Goulding stopped in Lisbon to meet with Ambassador José Cutileiro, the Plenipotentiary for Bosnia-Herzegovina, and the Chairman of the European Community (EC) Conference on Yugoslavia, Lord Carrington, who briefed him on the latest session of the Conference held under his chairmanship on constitutional arrangements in Bosnia-Herzegovina. In Belgrade Mr. Goulding met with President Slobodan Milosevic of Serbia, Dr. Borisav Jovic, Chairman of the State Committee for Cooperation with the United Nations and Colonel-General Blagoje Adzic, Acting Federal Secretary for Defence and Army Chief of Staff, as well as Mr. Radovan Karadzic, leader of the Serbian Democratic Party (SDS) in Bosnia-Herzegovina. In Sarajevo, headquarters of UNPROFOR and the capital of Bosnia-Herzegovina, he had discussions with President Alija Izetbegovic, leaders of the Croatian Democratic Community (HDZ) and Muslim Party of Democratic Action (SDA) parties in that Republic, General Milutin Kukanjac, Commander of the Yugoslav People's Army (JNA) Sarajevo corps, Mr. Colm Doyle, Lord Carrington's representative,

and the Force Commander of UNPROFOR and his staff. In Zagreb, Mr. Goulding held meetings with President Franjo Tudjman of Croatia, Dr. Milan Ramljak, Deputy Premier and Chairman of the State Commission for Cooperation with UNPROFOR, General Anton Tus, Chief of Staff of the Croatian Army, and Ambassador Joao Salgueiro, Head of the European Community Monitoring Mission (ECMM). He also visited UNPROFOR in Sector East (Eastern Slavonia) and met with local civic, military and militia leaders on both sides of the line. During his visits to Belgrade and Zagreb, Mr. Goulding received detailed briefings on the humanitarian situation, with particular emphasis on Bosnia-Herzegovina, from representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC). Mr. Goulding was accompanied throughout by the Force Commander of UNPROFOR, Lieutenant-General Satish Nambiar.

I. THE SITUATION IN BOSNIA-HERZEGOVINA

3. Mr. Goulding has reported to me a grim state of affairs in the Republic of Bosnia-Herzegovina. The situation in the capital, Sarajevo, which I had described briefly in my previous report, 2/ continues to deteriorate. The city suffers regular heavy shelling and sniper fire nightly, and intermittent shelling at other times, often on a random basis, from Serb irregulars in the surrounding hills, who use mortars and light artillery allegedly made available to them by JNA. Muslim forces have blockaded JNA locations in the city (including a military school with 1,300 teenage pupils and the military hospital) and regularly attack a Serb stronghold in the suburb of Ilidza as well as other locations in the city. Loss of life and much damage to property have resulted. Even on a day when shelling is light there is no public transport, few people go to work and the streets are largely deserted. The city's civilian airport is usually closed. Economic life is at a standstill and there are growing shortages of food and other essential supplies owing to the blockade imposed on the city by Serb forces.

4. Intense hostilities are taking place elsewhere in the Republic, notably in Mostar and the Neretva valley (JNA versus Croat forces; Belgrade's claim that these are units of the Croatian Army is contested by Zagreb and has not been confirmed by UNPROFOR, but it is not disputed that individual members of the Croatian Army, with their weapons, are extensively deployed in Bosnia-Herzegovina); in Bosanski Krupa near the Bihac region in the north-west (Serbs versus Muslims); around Bosanski Brod in the north-east (Serbs versus Croats); and in eastern Bosnia (Serbs versus Muslims, although this area is now largely under Serb control).

5. All international observers agree that what is happening is a concerted effort by the Serbs of Bosnia-Herzegovina, with the acquiescence of, and at least some support from, JNA, to create "ethnically pure" regions in the context of negotiations on the "cantonization" of the Republic in the EC Conference on Bosnia-Herzegovina, chaired by Ambassador Cutileiro. The techniques used are the seizure of territory by military force and

intimidation of the non-Serb population. The conclusion of a partial cease-fire agreement between Croat and Serb leaders on 6 May 1992 has revived suspicions of a Croat-Serb carve up of Bosnia-Herzegovina, leaving minimal territory to the Muslim community, which accounts for a plurality (44 per cent) of the population. Further concern has been caused by the decision of the Belgrade authorities to withdraw from Bosnia-Herzegovina by 18 May all JNA personnel who are not citizens of that Republic. This will leave in Bosnia-Herzegovina, without effective political control, as many as 50,000 mostly Serb troops and their weapons. They are likely to be taken over by the Serb party.

6. The fighting and intimidation have led to massive displacement of civilians. On 8 May 1992, it was estimated that at least 520,000 persons (over 12 per cent of the Republic's population) had been displaced, some 360,000 of whom have taken refuge in neighbouring republics. The international community's efforts to bring succour to these suffering people are greatly obstructed by the warring parties whose demographic objectives they may frustrate. Freedom of movement is virtually non-existent: a recent UNHCR convoy had to negotiate its way through 90 roadblocks between Zagreb and Sarajevo, many of them manned by undisciplined and drunken soldiers of undetermined political affiliation and not responsible to any identifiable central authority. Relief supplies are stolen, vehicles hijacked and international aid workers threatened and abused.

7. In spite of energetic efforts by Mr. Colm Doyle, Lord Carrington's representative, it has proved impossible to implement the cease-fire agreement signed in Sarajevo on 12 April 1992 under EC auspices and reaffirmed on 23 April 1992 during the visit to Sarajevo of the Portuguese Foreign Minister and Lord Carrington. Following the killing of one of its members near Mostar on 1 May, ECMM initially reduced its presence in Bosnia-Herzegovina and has now completely withdrawn its monitors from the Republic. All international observers and workers in Bosnia-Herzegovina are pessimistic about the prospects for a durable peace and many expect that they too will soon have to withdraw.

8. Meanwhile Ambassador Cutileiro continues his efforts to induce the leaders of the Croat, Muslim and Serb communities to agree on future constitutional arrangements for the Republic. He suspended the most recent session of his Conference on 1 May because of the parties' failure to honour the cease-fire, but he was encouraged by the acceptance, by all sides, of the principle of "cantonization", whereby each "national" group would be responsible for its own region or regions within a confederal, independent and sovereign Bosnia-Herzegovina. He told Mr. Goulding on 9 May 1992 that he hoped to be able to reconvene the Conference on 13 May 1992 in order to start discussion of draft maps of the cantonal boundaries. In his view it was important for the talks, once restarted, to work through to a successful conclusion, without further suspensions. However, on 11 May, Ambassador Cutileiro informed the parties that, because of the deterioration in the security situation in Sarajevo on 10 May, and in particular the theft

of 12 tons of ICRC relief supplies from the airport, he had decided to postpone the reconvening of his Conference.

9. As for the United Nations, I had already decided 3/ to advance the deployment of UNPROFOR military observers in Bosnia-Herzegovina and 41 of them have, since 1 May 1992, been conducting patrols from 4 locations - Medjugorje, Mostar, Stolac and Trebinje. On 10 May the military observers were able to establish a temporary cease-fire in Mostar to evacuate civilians and wounded from the front lines but, this success excepted, they have found it impossible to reduce the intensity of the conflict. On 6 May a military observer in Mostar was wounded by shrapnel. Conditions remain extremely difficult for his colleagues and it cannot be excluded that concern for their security will soon make it necessary to withdraw them. On 12 May, a military observer vehicle was struck by a rocket or other missile, its two occupants being fortunate to escape injury. Operations of UNPROFOR military observers have been suspended as a result.

10. In addition, UNPROFOR's presence in Sarajevo has inevitably led to its being asked to help, in various ways, those who are trying to control the Bosnia-Herzegovina conflict and mitigate its worst consequences. While such help does not fall within UNPROFOR's mandate, the Force has, with my authority, responded to those requests in so far as its resources and the security of its personnel permit. Its headquarters building has become the only meeting place accepted by all the parties in the EC-led efforts to implement the cease-fire. It has responded to humanitarian emergencies arising from the shelling of the city, has provided some support to international humanitarian agencies and has made its good offices available, with the EC representatives, in crisis situations, including those directly arising from military conflict between two of the parties in Sarajevo.

II. FEASIBILITY OF A UNITED NATIONS PEACE-KEEPING OPERATION IN BOSNIA-HERZEGOVINA

11. Mr. Goulding's discussions with his interlocutors on the feasibility of a peace-keeping role for the United Nations in Bosnia-Herzegovina envisaged two possible time-frames: (a) an immediate operation to help to end the current fighting; and (b) an operation to help to implement the agreement or agreements which it is hoped will be reached in the talks chaired by Ambassador Cutileiro. The views of his interlocutors on each of these possibilities are described below.

A. An immediate United Nations operation

12. President Izetbegovic, his fellow-SDA member of the Bosnia-Herzegovina Presidency, Mr. F. Abdic, and the representative of the Croat HDZ party in Bosnia-Herzegovina, Mr. M. Ljubic, were the only advocates of immediate United Nations intervention in the current situation. President Izetbegovic advocated a peace-enforcement operation of 10,000 to 15,000 soldiers,

supported by air forces, to "restore order" in Bosnia-Herzegovina. Upon being advised by Mr. Goulding that enforcement action would require a much larger operation than President Izetbegovic contemplated and would be unlikely to be approved by the Security Council, the President suggested the deployment of a 6,000 to 7,000-man United Nations infantry force to ensure the unblocking of road, rail and air transport in the Republic, to protect and keep open Sarajevo Airport and certain essential bridges and to keep the peace at "neuralgic spots" where conflict was currently raging (including the towns, listed in paragraph 9 above, where UNPROFOR military observers have already been deployed). Mr. Goulding pointed out that such a role, while consistent with customary United Nations peace-keeping practice, would require the existence of a prior agreement among the principal parties to the conflict. President Izetbegovic accepted that no such agreement was in sight.

13. Mr. Mariofil Ljubic, on behalf of the Croat HDZ party, also advocated a peace-enforcement operation, not necessarily under United Nations auspices, to be followed by a United Nations peace-keeping force to maintain the peace that had been enforced and thereby create conditions for political negotiations and new elections in Bosnia-Herzegovina.

14. Mr. Goulding's interlocutors in Belgrade, including Mr. Karadzic, saw no role for a United Nations peace-keeping force in the present circumstances and considered the current deployment of UNPROFOR military observers in the Mostar region to be of limited utility. They were doubtful about the prospects of negotiating any interim agreements that could form an acceptable basis for the mandate of a United Nations operation, in advance of agreement on new constitutional arrangements in Ambassador Cutileiro's Conference. The same views were expressed by General Kukanjac in Sarajevo and by Ambassador Salgueiro in Zagreb.

15. Mr. Goulding explored the possibility of a United Nations role in resolving specific problems, such as those relating to the closure of Sarajevo Airport, on the basis of local or ad hoc agreements among the warring parties. Once again this idea was found acceptable only by President Izetbegovic; in the view of Mr. Goulding's other interlocutors, no such agreements were currently achievable. Mr. Doyle expressed the view that, should he succeed in his attempts to obtain adherence to the EC-brokered cease-fire agreed on 12 April, the cease-fire should continued to be monitored by EC, within its existing mandate and using its existing Monitoring Mission.

16. Mr. Goulding also discussed with some of his interlocutors, and with the Force Commander of UNPROFOR, the feasibility of a United Nations peace-keeping role in support of the humanitarian activities of the international community, and especially of UNHCR, to which I have entrusted the lead role within the United Nations system. The UNHCR representatives, who described in detail the difficulties encountered by their relief convoys in the present security situation, including the hijacking of several of their trucks (with their contents), were keen that UNPROFOR should escort their convoys. The Force Commander and Mr. Goulding noted that no agreements had been negotiated for the unhindered distribution of humanitarian aid. In these circumstances, and

given the parties' uncooperative attitude to the movement of relief convoys, they judged that unarmed United Nations peace-keepers would not be able to prevent trucks from being blocked and stolen and armed troops would be required to implement such a mandate.

B. An operation to help to implement a political settlement

17. There emerged, however, some measure of agreement on a possible role for United Nations peace-keepers in helping to implement the constitutional agreement which is expected to emerge from the Conference chaired by Ambassador Cutileiro. President Izetbegovic, who stated that he had reluctantly accepted the cantonization principle as preferable to war, said that a United Nations peace-keeping force would be welcome in his Republic to separate the warring forces, to monitor such internal borders as might be agreed and to verify that no military personnel and equipment crossed those borders. The Belgrade authorities and the JNA leadership in both Belgrade and Sarajevo expressed agreement with that concept. Dr. Karadzic, leader of the Serb party, stated that UNPROFOR military observers could conceivably perform those functions, although if the borders were drawn well enough no international monitoring might be necessary. President Tudjman of Croatia expressed similar views.

III. DEPLOYMENT OF UNPROFOR

18. During his visit to Sarajevo and in his discussions with the Force Commander, Mr. Goulding was struck by the problems caused for the Force by the situation in that city. The Force Commander estimated that they currently consumed 75 per cent of his time. Movement in and out of the city is impossible on days of heavy shelling and General Nambiar has on occasions found himself stranded for up to 24 hours at intermediate points waiting for a lull in the fighting. The security of UNPROFOR personnel is a constant worry, and both the headquarters and residential quarters have experienced a number of near-misses. Nights of anxiety spent in shelters have an inevitable effect on the headquarters' effectiveness and could, ultimately, affect morale, although it remains excellent at this time. The blockade and the suspension of economic activity in Sarajevo have already obliged the Force Commander to move most of the civilian administrative staff to Belgrade and Zagreb.

19. General Nambiar recommended that, for pressing operational and security reasons, he and other significant elements of his headquarters staff should now be similarly relocated on a temporary basis pending an improvement in the situation. Sarajevo would remain the official site of UNPROFOR headquarters and sufficient staff would stay there to undertake the activities described in paragraphs 9 and 10 above and to provide a launching pad for any additional activities that the Security Council might in due course authorize. A detachment of armed troops would be retained to ensure security and United Nations humanitarian agencies could, if they wished, move temporarily to UNPROFOR's location.

20. All Mr. Goulding's interlocutors, and especially those in Croatia, pressed that UNPROFOR should assume its full responsibilities in all the United Nations Protected Areas as soon as possible. Unfortunately the timetable envisaged in annex I to document S/23777 has slipped by about a week. This is due to the above-mentioned difficulties in Sarajevo, to the complexities of transporting infantry battalions and their equipment from distant countries and to insurmountable difficulties in assigning civilian staff and procuring the equipment that they and United Nations police monitors require to carry out their functions. However, the Force Commander has notified the two sides that he will assume his full responsibilities in Sector East with effect from 0800 hours on 15 May 1992. This will bring to an end the nightly cease-fire violations in that sector, in particular the shelling of the city of Osijek, which continues to suffer serious casualties and damage at the hands of JNA. It will also bring to an end the continuing expulsions of non-Serb persons from those parts of Eastern Slavonia that are controlled by JNA. UNPROFOR has obtained some evidence of the complicity of JNA and local police personnel in these expulsions, although this was denied by both Belgrade and local authorities when Mr. Goulding raised the matter with them.

21. A major focus of Mr. Goulding's discussions in Belgrade and Zagreb was related to the problem alluded to in my previous report. 4/ Certain areas of Croatia which are at present controlled by JNA and populated largely by Serbs are outside the agreed boundaries of the United Nations Protected Areas. These for the most part follow the administrative lines of the opstine listed in paragraph 9 of annex III to document S/23280 as they existed before the conflict. In earlier discussions in Belgrade and New York, the Belgrade authorities had pressed strongly for these areas to be included in the Protected Areas. Otherwise, they said, the Serbs resident in them would resist by force the restoration of Croatian authority after the withdrawal of JNA. In that event the territorial defence units in the neighbouring Protected Areas would refuse to abandon their fellow-Serbs to "genocide" and widespread fighting would resume. The Croatian authorities had equally strongly resisted any changes in the boundaries of the United Nations Protected Areas. Attempts by the United Nations to reconcile these conflicting positions had failed.

22. The Force Commander reported that his Sector Commanders, especially those in Sectors North and South, had encountered serious difficulties in some areas where Serb territorial defence units were obstructing UNPROFOR's establishment of checkpoints and observation posts and saying that they would not demobilize unless the additional areas concerned were brought into the United Nations Protected Areas. General Nambiar expressed concern about the viability of his mandate unless that problem was resolved. It was accordingly decided to make a further effort to find a solution either by persuading the Belgrade authorities to make a serious effort to convince the Serb populations in the areas outside the Protected Areas that they would be safe when Croatian authority was restored or by persuading the Croatian authorities to accept some modification of the boundaries of the Protected Areas (including the removal from them of some wholly Croat areas) or by a combination of the two.

23. Unfortunately Mr. Goulding was not successful in this effort. Both sides insisted on their previous positions, except that President Tudjman agreed that United Nations military observers and police monitors could be deployed in the areas in question, possibly alongside EC monitors, in order to help to reassure the Serb population that their individual and collective rights would be fully respected. When asked how they would react if UNPROFOR deployed in accordance with the existing boundaries of the United Nations Protected Areas, none of the Belgrade authorities said that they would withdraw their cooperation but all expressed grave concern about the impact of such a decision on the affected populations and stated that the consequences for the implementation of the plan could not be predicted. On 11 May, the Force Commander conveyed the outcome of Mr. Goulding's efforts to the Belgrade authorities, who repeated their conviction that renewed violence was likely in the affected areas adjoining Sectors North and South.

24. Mr. Goulding was also informed by the JNA leadership that, following the declaration on 27 April 1992 of the new Federal Republic of Yugoslavia, the Belgrade authorities' policy was to withdraw from republics other than Serbia and Montenegro all JNA personnel who were citizens of the Federal Republic of Yugoslavia, leaving behind the others to be demobilized or join the armed forces of the new republics. This policy was already being applied in Bosnia-Herzegovina where it was estimated that 80 per cent of JNA's strength were citizens of that Republic. It would similarly be applied in UNPROFOR's Sectors North and South. Mr. Goulding pointed out that that would greatly increase the number of troops who would have to be demobilized in order to demilitarize the United Nations Protected Areas. UNPROFOR would continue to plan on the basis that, in that difficult task, it would have the full support and assistance of JNA, with which, among others, the plan had been negotiated.

IV. OBSERVATIONS

25. As will be evident from section I of the present report, the situation in Bosnia-Herzegovina is tragic, dangerous, violent and confused. I do not believe that in its present phase this conflict is susceptible to the United Nations peace-keeping treatment. Any successful peace-keeping operation has to be based on some agreement between the hostile parties. Such an agreement can range from a simple cease-fire to a comprehensive settlement of their dispute. Without an agreement of some sort, a workable mandate cannot be defined and peace-keeping is impossible. The European Community has been making efforts, both on the ground in Sarajevo and in the constitutional talks in Lisbon, to reach agreements. If, as all must hope, they succeed, opportunities for United Nations peace-keeping may emerge, though it may in this case turn out to be more appropriate for EC, rather than the United Nations, to undertake the peace-keeping as well as the peacemaking.

26. It also has to be observed that a successful peace-keeping operation requires the parties to respect the United Nations, its personnel and its mandate. One of the more distressing features of the current situation in

Bosnia-Herzegovina is that, for all their fair words, none of the parties there can claim to satisfy this condition. The establishment of UNPROFOR's headquarters in Sarajevo has not prevented a savage conflict from breaking out there. General Nambiar's repeated appeals for restraint have been ignored. He and Mr. Goulding were unjustifiably delayed, and mortar rounds fired close to them, by Serb irregulars on 5 May 1992. On 3 May, Muslim militiamen, reneging on an agreement for the safe passage of JNA personnel leaving the JNA headquarters in Sarajevo, killed a number of them in cold blood in the presence of senior UNPROFOR officers who were powerless to stop the slaughter (and were subsequently abused, detained and disarmed by Serb militiamen because of their alleged complicity in the plot). United Nations personnel are routinely harassed, the Organization's property stolen and its emblems and uniforms misappropriated by various of the parties. These are not the conditions which permit a United Nations peace-keeping operation to make an effective contribution.

27. It could be argued that in these circumstances the United Nations should consider the possibility of deploying an "intervention force" which would be sent in, without the consent of all the parties, to enforce an end to the fighting. Indeed President Izetbegovic made such a request (see para. 12 above). Given the intensity and scale of the fighting, such a concept would require many tens of thousands of troops equipped for potential combat with heavily armed and determined adversaries. I do not believe that an enforcement action of this kind is a practicable proposition.

28. On 8 May, President Izetbegovic wrote to me, following Mr. Goulding's visit, to request the deployment of United Nations peace-keeping forces with "specific goals and a limited workable mandate" to control Sarajevo Airport, protect humanitarian aid deliveries and keep open roads, bridges and border crossings. If, contrary to the general expectation (see para. 7 above), it proved possible to obtain the other parties' agreement to interim arrangements of this kind, there might be a role for UNPROFOR military observers in monitoring their implementation. However, the chaotic military situation and the apparent inability of the protagonists to get their forces to respect cease-fire agreements would probably make it necessary to deploy armed troops. The protecting force might also find that it had to take control of extensive territory. Protection of Sarajevo Airport, for instance, could be not assured simply by a presence at the Airport itself; it would be necessary also to control the surrounding hills from which the Airport can be shelled and to ensure that access roads to it were not blockaded, as they are at present. Such a task could require several infantry battalions, and if the factions controlling the roadblocks objected, an enforcement function might become necessary, with all the implications that that would entail.

29. As regards the protection of international humanitarian programmes, experience has again shown that a mere United Nations presence is not sufficient to deter hostile action against them. The Force Commander's view, which I share, is that the best form of protection is respect for agreements,

binding on all the armed parties, to allow humanitarian supplies to be delivered without hindrance or abuse. Implementation of such agreements could be monitored by United Nations military observers.

30. To ensure effective protection in the absence of agreements between the parties, however, it would be necessary to provide convoys of relief supplies with armed escorts whose rules of engagement would permit them to open fire if a convoy was attacked. A protection operation would thus need to be on the lines of that proposed for Mogadishu in my report of 21 April to the Security Council. 5/ The Force Commander of UNPROFOR has advised me that such an operation would be technically feasible but that it would require adequately armed troops, who would have to be additional to UNPROFOR's existing strength. General Nambiar has also expressed the concern that the addition of this task to UNPROFOR's mandate would risk involving the Force in hostile encounters with those whose cooperation will be necessary if UNPROFOR is to succeed in fulfilling its existing mandate in the United Nations Protected Areas in Croatia. Such hostilities would also have far-reaching implications for the security of UNPROFOR personnel generally. I fully share General Nambiar's concerns and do not therefore recommend that the Security Council pursue this option at the present time.

31. As regards the deployment of UNPROFOR, I am convinced by the operational and security arguments in favour of the temporary relocation of the bulk of the Force's headquarters staff from Sarajevo. I am therefore instructing General Nambiar to proceed accordingly, while making it clear to the parties that this is only a temporary relocation, pending the restoration of calm in the city.

32. The question of the boundaries of the United Nations Protected Areas is a difficult one. The Croatian authorities are correct in their interpretation of the plan. It would have been helpful if they could have agreed to some adjustment of the agreed boundaries, but they were under no obligation to do so. I now see no alternative but to instruct General Nambiar to deploy and assume his responsibilities in the existing Protected Areas in accordance with the Plan, while appealing to JNA and the Serbian authorities to use their influence to calm the fears of the Serb communities who will find themselves outside the Protected Areas and to ensure that the demilitarization of the Protected Areas goes according to Plan.

33. I must also draw the Security Council's attention to the implications of the decision of the Belgrade authorities in respect of JNA, described in paragraph 24 above. In effect this removes from the area of operations a party to the United Nations peace-keeping Plan whose cooperation is essential to its success, while substituting for it a new element or elements which are not formally bound by the Belgrade authorities' acceptance of the Plan. Refusal by the much-enlarged local forces to demobilize would undermine the very basis of the Plan which UNPROFOR has been mandated to implement. As stated in my report of 4 February 1992, 6/ the Plan contains two central elements: withdrawal of JNA from Croatia and demilitarization of the United

Nations Protected Areas, and the continuing functioning of the existing local authorities and police, pending the negotiation of an overall political solution to the crisis in EC's Conference on Yugoslavia. Failure to demobilize would thus make UNPROFOR's mandate unimplementable. Renewed hostilities would almost certainly result, especially in and around Sectors North and South, and the Force's future would have to be reconsidered.

34. There are thus two main conclusions to be drawn from the present report. The first is that in Bosnia-Herzegovina it is not at present feasible to undertake peace-keeping activities beyond the existing limited involvement of UNPROFOR in Sarajevo and the Mostar region, in both of which places the security of United Nations personnel is already precarious. The second conclusion is that developments since the Security Council approved the Plan for the United Nations peace-keeping operation in Croatia have raised new doubts about the practicability of that operation.

35. In these circumstances, I believe that the Security Council must continue to lend its full support to the peace-making activities of the European Community. Political solutions to these tragic and complex conflicts can, in my view, be achieved only through a continuous and uninterrupted process of patient negotiation led by the European Community, which has already established agreed mechanisms for this purpose. The possibilities for an effective United Nations role will depend on its negotiators' success.

Notes

1/ S/23860.

2/ S/23844, paras. 18 and 19.

3/ Ibid., para. 7.

4/ Ibid., para. 22.

5/ S/23829.

6/ S/23513, para. 8.

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/23901
11 May 1992
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 11 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I should like to inform you that over the period 30 April-7 May 1992 United States aircraft have persisted in their violations of Iraqi airspace for purposes of observation and provocation.

30 April-1 May 1992

Thirteen sorties, flown by three 2-aircraft formations and seven single aircraft at speeds of 600-900 kilometres per hour and at altitudes of 2,000-5,500 metres, centred over Mosul, Irbil, Dohuk, Zakho, Tall Afar, Amadiyah and Rawanduz.

1-2 May 1992

Thirteen sorties, flown by five 2-aircraft formations and three single aircraft at speeds of 600-900 kilometres per hour and at altitudes of 4,500-7,000 metres, centred over Zakho, Dohuk, Mosul, Irbil, Tall Afar, Amadiyah and Ayn Zalah.

3-4 May 1992

Twenty-two sorties, flown by eleven 2-aircraft formations at speeds of 600-900 kilometres per hour and at altitudes of 3,500-8,000 metres, centred over Mosul, Irbil, Dohuk, Zakho and Amadiyah.

4-5 May 1992

Twenty-two sorties, flown by six 2-aircraft formations and 10 single aircraft at speeds of 600-720 kilometres per hour and at altitudes of 2,000-18,000 metres, centred over Dohuk, Mosul, Amadiyah, Tall Afar, Irbil and Dukan.

5-6 May 1992

Twenty-six sorties, flown by twelve 2-aircraft formations and two single aircraft at speeds of 600-900 kilometres per hour and at altitudes of 2,000-8,000 metres, centred over Zakho, Dohuk, Mosul, Irbil, Amadiyah, Tall Afar and Dukan. At 1125 hours on 5 May 1992, a formation consisting of two United States aircraft flew 15 kilometres inside the 36th parallel in the area of Irbil at a speed of 800 kilometres per hour and at an altitude of 2,000 metres.

6-7 May 1992

Seven sorties, flown by one 2-aircraft formation and five single aircraft at speeds of 600-900 kilometres per hour and at altitudes of 5,500-6,500 metres, centred over Amadiyah, Irbil, Mosul, Dohuk and Tall Afar.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Abdul Amir A. AL-ANBARI
Ambassador
Permanent Representative